

United States District Court
STATE AND DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA

V.

MAURICIO FRANCO-MARTINEZ

CRIMINAL COMPLAINT

Case Number:

MA-11-228-TNL

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about June 1, 2011, in St. Louis County, in the State and District of Minnesota, defendant(s)

an alien, who had been previously removed from the United States on or about March 29, 2001, subsequent to a conviction for an aggravated felony, namely: Robbery Second Degree, in the State of California on August 26, 1999, knowingly and unlawfully was found in the United States without obtaining permission from the Attorney General or the Secretary of Homeland Security to re-apply for admission into the United States,

in violation of Title 8, United States Code, Section(s) 1326(a) and (b)(2).

I further state that I am a(n) Border Patrol Agent and that this complaint is based on the following facts:
SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me, and subscribed in my presence,

June 06, 2011

Date

The Honorable Tony N. Leung
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

Signature of Complainant

James M. Ellis

U.S. Customs and Border Protection

St. Paul, MN

City and State

Signature of Judicial Officer

SCANNED

JUN 06 2011

U.S. DISTRICT COURT ST. PAUL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF James M. Ellis

James M. Ellis, being duly sworn, deposes and states as follows:

1. I have been employed with Customs and Border Protection (CBP) within the Department of Homeland Security (DHS) since September 2008. I have been employed as a Border Patrol Agent with the Office of Border Patrol since that time.
2. As a Border Patrol Agent, my duties and responsibilities include detection, investigation, apprehension, and seizure of persons and contraband found to be in violation of the United States Code. Most often I work with violations of Title 8 of the United States Code related to Immigration and Naturalization.
3. This Affidavit is based on my training, experience, personal knowledge and discussions with other law enforcement officers and agents directly involved in this investigation, and my review of official reports and documents related to this investigation.
4. This Affidavit is made for the purpose of establishing probable cause in support of a federal complaint and arrest warrant, and therefore contains only a summary of relevant facts. Based upon all the facts and information set forth in this Affidavit, I believe that probable cause exists to support that, on or about June 1, 2011, in St. Louis County, in the State and District of Minnesota, Mauricio FRANCO-Martinez unlawfully reentered and was found in the United States after having been previously removed, without having obtained the consent of the Attorney General or his successor, the Secretary of Homeland Security, to re-apply for admission to the United States, and that FRANCO-Martinez's removal was subsequent to a conviction

for commission of an aggravated felony, in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557.

5. On June 1, 2011, FRANCO-Martinez was stopped and detained in St. Louis County by a member of the Minnesota State Patrol for a traffic violation. During the stop, the trooper contacted the Duluth Border Patrol Station telephonically because FRANCO-Martinez did not have any identification and seemed to have difficulty communicating in the English language. The trooper sought Border Patrol assistance because Border Patrol Agents are usually proficient in the Spanish language.
6. A Border Patrol Agent conducted a field interview and determined that FRANCO-Martinez is a citizen and national of El Salvador illegally present in the United States. FRANCO-Martinez was arrested and transported to the Duluth Border Patrol Station where his fingerprints were entered into IAFIS (Integrated Automated Fingerprint Identification System), IDENT (Automated Biometric Identification System), and NCIC (National Crime Information Center). These systems revealed that Mauricio FRANCO-Martinez was previously deported as an aggravated felon and showed the convictions noted in paragraph 8.
7. On June 2, 2011, a Border Patrol agent requested that the immigration alien file (A-file) for FRANCO-Martinez (A29 546 309) be sent to the Duluth Border Patrol Station for review.
8. Parts of A file A29 546 309 were faxed to the Duluth Border Patrol Station. A review of those documents revealed that FRANCO-Martinez was, on May 31, 1994,

convicted in the Superior Court of California, County Court of Los Angeles, Central Criminal Branch for the offense of Sales of Marijuana, case # BA092707.

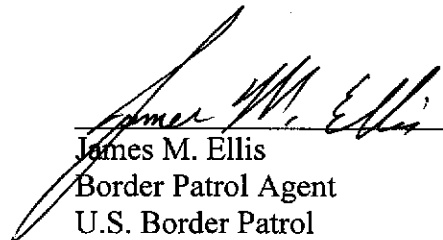
FRANCO-Martinez was, on December 12, 1995, convicted in the Superior Court of California, County Court of Los Angeles, Central Criminal Branch for the offense of Possession of a Controlled Substance, to wit: Narcotic, case # BA118195.

FRANCO-Martinez was, on September 12, 1996, convicted in the Superior Court of California, County Court of Los Angeles, Central Criminal Branch for the offense of Possession for Sale Cocaine Base, case # BA136717.

FRANCO-Martinez was, on August 26, 1999, convicted in the Superior Court of California, County Court of Los Angeles, Central Criminal Branch for the offense of Robbery 2nd Degree, case # BA187599. For this offense he was sentenced to 3 years imprisonment.

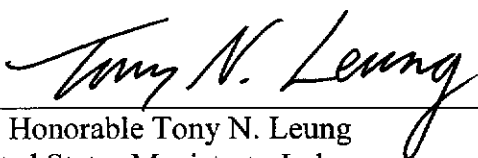
9. FRANCO-Martinez's immigration file indicates that he has been previously arrested and removed from the United States on two prior occasions. FRANCO-Martinez was removed from the United States to El Salvador on October 13, 1994, through Los Angeles, California and again on March 29, 2001, aboard the U.S. Marshal's Service Justice Prisoner and Alien Transportation System (JPATS) flight out of Phoenix, AZ.
10. Law enforcement has confirmed through fingerprints contained in FRANCO-Martinez's criminal history and immigration file that the individual named Mauricio FRANCO-Martinez, referenced in those records is, in fact, the same person who is currently in Border Patrol administrative custody and was encountered on June 1, 2011, by the Minnesota State Patrol.

11. My investigation has revealed that FRANCO-Martinez is a citizen and national of El Salvador who makes no claim to United States citizenship or lawful permanent residence status in the United States.
12. My investigation has revealed that since his removal from the United States on March 29, 2001, FRANCO-Martinez has not applied for, nor received, permission to enter the United States from the Attorney General, his successor, the Secretary of Homeland Security, or any other designated and authorized representative.
13. Based on these facts, I have reason to believe that Mauricio FRANCO-Martinez unlawfully reentered and was found in the United States after removal, in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557. Further Your Affiant Sayeth Not.


James M. Ellis
Border Patrol Agent
U.S. Border Patrol

SUBSCRIBED and SWORN to Before Me

This 6th day of June, 2011.


The Honorable Tony N. Leung
United States Magistrate Judge
District of Minnesota